



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/825,585	04/01/97	YOSHIDA	

005514 LM01/0119
FITZPATRICK CELLA HARPER & SCINTO
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NEW YORK NY 10112-3801

ENG, G	EXAMINER
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ART UNIT	PAPER NUMBER
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DATE MAILED: 01/19/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/825,585

Applicant(s)

Yoshida

Examiner

George Eng

Group Art Unit

2743

☒ Responsive to communication(s) filed on Oct 29, 1998

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-24 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-24 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Response to Amendment

1. This Office action is in response to the amendment filed 10/29/1998 (paper # 21).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

3. Claims 11-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Ueno (US PAT. 5,661,568).

Regarding claim 11, Ueno discloses a communication apparatus having a plurality of modems comprising detection means (col. 4 lines 51-57), receiving means (col. 5 lines 6-17), selection means and communication means (col. 5 lines 43-57).

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Regarding claims 12-16, Ueno discloses to select at least one modem on the basis of the received ID information in order to update the communication protocols stored in the memory for processing (col. 5 line 30 through col. 9 line 22).

Regarding claim 17, Ueno discloses the ID information includes telephone numbers (col. 5 lines 6-8).

Regarding claim 18, the limitations of the claim are rejected as the same reasons set forth in claim 11.

Regarding claims 19-23, the limitations of the claims are rejected as the same reasons set forth in claim 12-16.

Regarding claim 24, the limitations of the claim are rejected as the same reasons set forth in claim 17.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ueno (US PAT. 5,661,568).

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Regarding claim 1, Ueno teaches a data communication apparatus and method for executing plural kinds of communication protocols as shown in figure 1 comprising a first data modem (107), a second data modem (109), a first protocol modem (106), a second protocol modem (108), a network controller (110) comprising a detection circuit for detecting a call signal (col. 4 lines 51-57), a memory 105 for storing communication information and telephone numbers, i.e., ID information (col. 5 lines 6-17), means for reading the ID information in order to select one of the first and second communications protocols (col. 5 lines 45-57). Ueno differs from the claimed invention in not specifically teaching two protocol modems. However, Ueno teaches to reduce a total communication time by transmitting protocol signal in a low speed modem and data signal in a high speed modem. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the modem 108 as a protocol modem for a data modem 109 because of reducing the communication time.

Regarding claims 2-3, Ueno teaches a memory 105 for storing an information of a destination station in accordance with an execution of a communication protocol and telephone numbers, i.e., the ID information for identifying the destination station (col. 5 lines 6-17).

Regarding claim 4, Ueno teaches a data communication apparatus is capable of changing with different type of modems (figure 1 and col. 5 line 18 through col. 9 line 22).

Regarding claim 5, Ueno differs from the claimed invention in not using V.8 and V.35 in a communication apparatus, the particular of protocol used is merely a matter of design option such that V.34 is the international standard for dial up modems of up to 28,800 bits per second and V.8

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is a way V.34 modems negotiate connection features and option. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Ueno using V.8 and V.35 in the communication apparatus because of compatibility so that it can be widely used to communicate with other apparatus in particular protocols.

Regarding claim 6, the limitations of the claim are rejected as the same reasons set forth in claim 1.

Regarding claims 7-8, the limitations of the claims are rejected as the same reasons set forth in claim 2-3.

Regarding claim 9, the limitations of the claim are rejected as the same reasons set forth in claim 4.

Regarding claim 10, the limitations of the claim are rejected as the same reasons set forth in claim 5.

Response to Arguments

6. Applicant's arguments filed 11/5/1998 (paper # 20) have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the memory which is found in the receiving station) are not recited in the rejected claim(s). Although the

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claims are interpreted in light of the specification, limitations from the specification are not read into the claims. *In re Van Guens*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant's argument also asserted that neither Ueno teaches to use the type of information to search a memory nor to search the memory for the different partner stations (i.e., protocol) on the basis of ID information. However, Ueno clearly discloses that the memory 105 is used to store telephone numbers, i.e., ID information, and to select one of the protocols on the basis of ID information (col.5 lines 6-17 and lines 45-57). Therefore, claims 1 and 6 are rejected by Ueno.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire **THREE MONTHS** from the date of this action. In the event a first response is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than **SIX MONTHS** from the date of this final action.

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8. Any response to this final action should be mailed to:

Box AF

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 308-9051, (for formal communications; please mark "EXPEDITED
PROCEDURE")

Or:

(703) 305-9508 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal
Drive, Arlington, VA., Sixth Floor (Receptionist).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Eng whose telephone number is (703) 308-9555. The examiner can normally be reached on Tuesday to Friday from 7 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Curtis Kuntz, can be reached on (703) 305-4708.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

GEORGE ENG

January 15, 1999

A handwritten signature in black ink, consisting of several fluid, overlapping strokes that form a stylized, elongated shape.

PAUL LOOMIS
PRIMARY EXAMINER